

Opening Statement of the Honorable Greg Walden
Subcommittee on Communications and Technology
Hearing on “Continued Oversight of the Federal Communications Commission”
July 28, 2015

(As Prepared for Delivery)

Good morning everyone. Good morning Chairman Wheeler. Good morning Commissioner Pai. Thank you both for joining us this morning.

At the risk of sounding like a broken record, I continue to be concerned with the Commission's failure to adhere to sound regulatory process. For the nearly five years that I have chaired this subcommittee, I have consistently pushed to make the FCC a better, more transparent agency, only to see the chasm between the Commissioners deepen over that time. When this Committee considered process reform legislation a few months ago, I had hoped that we had reached the bottom of the well. That the Commission would begin to find its way back to the collegiality and honest policy debates and compromises that have characterized the FCC since 1934. Unfortunately, that hasn't been the case. And if Commissioner Pai's testimony is any indication, things might actually be getting worse. This is disappointing, to say the least.

With all that is going on at the Commission and in the world of communications, we have much ground to cover in today's hearing which likely will necessitate a second round of questioning. To get things started, let me highlight five areas of policy concern that I, and other members of this Subcommittee, have:

First, the auction. For a successful auction, we all know that the sellers and buyers need to fully understand and support the rules. Yet when it comes to the band plan, questions and uncertainty abound. Layered on top is growing concern regarding how the repack will work, including as it relates to the future of low power television stations and translators. It was never our intent that these diverse voices in the marketplace would get fully silenced. And then there are the issues of potential interference, which as we all know when mishandled can doom the auction, as has happened in the past.

Second, the FCC's action on the designated entity issue raises concerns for many of us. While the FCC majority claims that its changes will strengthen the integrity of the program, sadly they simply replace one set of rules that were “gamed” with a new set to be gamed. The Commission's new rules remove the obligation to provide facilities-based service and permit leasing of 100% of the spectrum purchased, setting the stage for sophisticated spectrum arbitragers financed by taxpayer dollars to participate in the next spectrum auction bringing nothing to the competitive market. The Chairman's advocacy for this outcome is puzzling given his assurances that the changes would protect the program from “slick lawyers” taking advantage of loopholes in the program to unjustly enrich their sophisticated clientele.

Third, Telephone Consumer Protection Act. My colleague from New Mexico and I have had serious, bipartisan discussions about the approach the FCC has taken as it relates to the fundamental nature of democracy in America and practical communications in the wireless age. Beyond that, members of this Subcommittee are just beginning to hear from adversely affected users about the disruption this new ruling will have on a variety of companies and the consumers they try to serve.

Fourth, expansion of the Lifeline program. All one has to do is read today's story in Politico regarding the problems over at the Department of Agriculture's Rural Utility Service to understand why it is essential before any agency moves to spend money it should have tight control and a budget. Unfortunately for ratepayers, in a party line vote, the FCC decided to rush forward to expand the Lifeline program into broadband with little reform and no limit on the spending.

Fifth, amid the swirl of controversy that continues to surround the actions the Commission takes, let us not lose sight of what is not getting done. For example, the AM revitalization proceeding has been described by some as “grinding to a halt” despite the Chairman's assurances to this subcommittee. The

quadrennial review of the limitations on ownership of broadcast properties continues to languish in open violation of the Commission's legal obligation.

And let me close with this: Each member of the Commission is very bright, talented and passionate. And yet, as evidenced by recent public comments of Commissioner O'Rielly and the testimony today of Commissioner Pai, it is clear that they believe the process at the FCC too often fails to include them in a meaningful, substantive way. And we hear similar complaints from stakeholders who feel ignored or shutout altogether. This is neither necessary, nor helpful, as the Commission—and all of us in Congress—try to work through the complicated issues in today's rapidly evolving communications world.

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